

6150. Misbranding of Boonekamp Magen-Stomach Bitters. U. S. * * * v. Victor Gautier & Co., Inc., a corporation. Plea of guilty. Fine, \$25. (F. & D. No. 7781. I. S. No. 4655-1.)

On January 22, 1917, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Victor Gautier & Co. Inc., a corporation, New York, N. Y., alleging the sale and delivery by said company, on March 15, 1916, in violation of the Food and Drugs Act, as amended, under a guaranty that the article was not misbranded within the meaning of the said act, as amended, of a quantity of an article labeled in part, "Boonekamp Magen-Stomach Bitters," which was a misbranded article within the meaning of said act, and which said article, in the identical condition in which it was received, was shipped by the purchaser thereof on or about March 20, 1916, from the State of New York into the State of Maryland, in further violation of the said act as amended.

Analysis of a sample of the article by the Bureau of Chemistry of this department shows the following results:

Net contents.	Shortage.	Shortage.
<i>Fluid ounces.</i>	<i>Fluid ounces.</i>	<i>Per cent.</i>
24.0	2.0	7.7
23.8	2.2	8.4
25.5	.5	1.9
Average. 24.43	1.57	6.0

Misbranding of the article was alleged in substance in the information for the reason that the statement, to wit, "Contents 26 Fluid Ozs.," borne on the wrapper inclosing the bottles, regarding the article, was false and misleading in that it represented that the bottle contained 26 fluid ounces, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained not less than 26 fluid ounces, whereas, in truth and in fact, it did not, but contained a less amount, to wit, approximately 24.43 fluid ounces. Misbranding of the article was alleged for the further reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On June 4, 1917, the defendant company entered a plea of guilty to the information, and the court imposed a fine of \$25.

R. A. PEARSON, *Acting Secretary of Agriculture.*